

PAPER-11: INDIRECT TAXATION

Answer to MTP_Intermediate_Syllabus 2016_Jun2023_Set1

Paper 11 - Indirect Taxation

Full Marks : 100

Time allowed: 3 hours

The figures in the margin on the right side indicate full marks.
working notes should form part of the answer

GST (Section – A)

PART – I

(Answer all the questions)

1. Answer the following questions

(a) Multiple choice questions:

[1x5=5]

- (i) Power to make laws with respect to goods and services tax has been given by the Constitution vide Article:
- 279A;
 - 246A;
 - 246;
 - 365;
- (ii) Levy and collection of Central Goods and Services Taxes are dealt by:
- Central government;
 - State Government;
 - NIC;
 - UGS;
- (iii) GST is a:
- Destination based tax;
 - Source based tax;
 - Production based tax;
 - None of the above;
- (iv) License to occupy land is treated as:
- Supply of goods;
 - Supply of service;
 - Neither supply of goods nor supply of services;
 - Partly supply of goods and partly supply of services;
- (v) A hotel provides a 4-D/3-N package with the facility of breakfast. This is a
- Mixed supply;
 - Composite supply;
 - Both mixed and composite supply;
 - None of the above;

Answer:

(i)	(b)	246A;
(ii)	(a)	Central Government
(iii)	(a)	Destination based tax;
(iv)	(b)	Supply of service;
(v)	(b)	composite supply

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(b) Match the following [1x5=5]

(i) Bank guarantee	(a) composite supply
(ii) Supply without consideration	(b) Mixed Supply
(iii) Naturally bundled	(c) Gifts by Employer to Employee <₹50,000
(iv) Cancellation Of registration form	(d) Actionable Claim
(v) Single Price	(e) GSTR REG 16

Answer:

(i) Bank guarantee	(d) Actionable Claim
(ii) Supply without consideration	(c) Gifts by Employer to Employee <₹50,000
(iii) Naturally bundled	(a) composite supply
(iv) Cancellation Of registration form	(e) GSTR REG 16
(v) Single Price	(b) Mixed Supply

(c) State whether true or false: [1x5=5]

- (i) 4% is one of the IGST rate.
- (ii) Supply of printed books is exempt.
- (iii) A manufacturer of building bricks cannot opt for composition scheme.
- (iv) Time of supply means the point of time when goods/services are considered as supplied.
- (v) ITC shall not available if the same is not reflected in Form GSTR 2B of the registered person.

Answer:

(i)	(ii)	(iii)	(iv)	(v)
false	false	true	true	true

(d) Fill in the blanks [1x5=5]

- (i) Mortgage hypothecation charge or pledge (is /is not) supply
- (ii) Maximum GST rate is
- (iii) For cosmetic and plastic surgery input tax credit (ITC) is..... (allowed/not allowed).
- (iv) The levy of is not applicable to supplier of radio taxi for passenger transport services.
- (v) For casual taxable person making taxable supply, is necessary.

Answer:

- (i) is not
- (ii) 28%
- (iii) not allowed
- (iv) GST
- (v) registration

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PART – II

(Answer any four questions out of six questions given. Each question carries 15 marks.)

2. (a) What is GSTN and state its function. [4+5=9]
- (b) State with reason whether the following supplies are mixed or composite [3+3=6]
- (i) When goods are packed and transferred with insurance.
- (ii) Mr. A booked a Rajdhani train ticket, which includes meal.

Answer:

- (a) GSTN: Goods and Services Tax Network (GSTN) is a [Section 8 of the Companies Act, 2013, (i.e. not for profit companies)], non-Government, private limited company. Technology backbone for GST in India. GST being a destination based tax, the inter- state trade of goods and services (IGST) would need a robust settlement mechanism amongst the States and the Centre. This is possible only when there is a strong IT Infrastructure and Service back bone which enables capture, processing and exchange of information amongst the stakeholders (including tax payers, States and Central Governments, Accounting Offices, Banks and RBI).

As a result, Goods and Services Tax Network (GSTN) has been set up.

GST Network will soon become a 100% govt. owned company:

Cabinet consider converting GSTN to government entity on September 26, 2018.

Functions of the GSTN (i.e. Role assigned to GSTN):

Creation of common and shared IT infrastructure for functions facing taxpayers has been assigned to GSTN and these are:

1. filing of registration application,
2. filing of return,
3. creation of challan for tax payment,
4. settlement of IGST payment (like a clearing house),
5. generation of business intelligence and analytics etc.

All statutory functions to be performed by tax officials under GST like approval of registration, assessment, audit, appeal, enforcement etc. will remain with the respective tax departments.

- (b) (i) When goods are packed and transported with insurance, the supply of goods packing materials transport and insurance is a composite supply and supply of goods is a principal supply.
- (ii) It is a bundle of supplies. It is a composite supply where the products cannot be sold separately. The transportation of passenger is, therefore, the principal supply. Rate of tax applicable to the principal supply will be charged to the whole composite bundle. Therefore, rate of GST applicable to transportation of passengers by rail will be charged by IRCTC on the booking of Rajdhani ticket.

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3. (a) (i) Shopper's Stop Store a large retailer who sells various types of products like readymade garment, jewellery, cosmetics, fabrics, shoes etc., issued the voucher on 10-07-2022 to their prospective customer for enabling them to buy any product from their shop. Customer purchased readymade garments on 20th Aug 2022.
Find the time of supply of goods. [2]
- (ii) Mr. Ram sends goods to Mr. Rahim on approval basis on 20th January 2022. Find the time of supply in the following independent cases:
(1) If Mr. Rahim. accept the goods on 10th February 2022.
(2) If Mr. Rahim accepts the goods on 1st September 2022.
(2) If Mr. Rahim returns the goods on 10th February 2022.
(4) If Mr. Rahim return the goods on 1st September 2022 [4]
- (b) (i) Determine the place of supply of service as well as their taxability in each of the following cases with brief reasons: [2+2+2=6]
(1) Q Ltd. of Delhi, agrees to provide 'technical inspection and certification service' in respect of a newly developed product of an overseas firm (for a newly launched motorbike which has to meet emission standards in different states or countries). The overseas firm has provided its newly developed product Q Ltd. for the purpose of testing. The testing is carried out in Delhi (15%), Assam (35%) and Sweden (50%).
(2) A movie on demand is provided as on board entertainment during the Kolkata-Delhi leg of a Bangkok- Kolkata-Delhi Flight.
(3) Mrs. Rita Kumar, an Interior Designer based in Delhi provides her service to an Indian Hotel Chain (which has business establishment in Mumbai) for its newly acquired property in London.
- (ii) Mr. A supplied goods to Mr. D on 28th January 2023. The GST rate on goods is changed from 12% to 5% w.e.f. 1st January 2023. Mr. A issued invoice on 28th August 2022 and payment is credited in his bank account on 30th December 2022.
1. What is the time of supply in this case?
2. What is the Effective rate of GST? [2+1=3]

Answer:

- (a) (i) Time of supply of goods = 20-08-2022
Note: time of supply will be the date of encashment of voucher (i.e. Redemption of voucher), since, the voucher is not identifiable with any specific product

(ii)

Sl no.	particulars	Time of Supply	Remarks

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(1)	Mr. Rahim. accept the goods on 10th February 2022.	10th February 2022	Time when it becomes known that supply is taken place (i.e. 10th Feb 2022) or Six months from the date of removal (i.e. 20th July 2022) Whichever is earlier.	
(2)	Mr. Rahim accepts the goods on 1st September 2022.	21st July 2022	1st day after expiry of 6 months from the date of removal.	
(3)	Mr. Rahim returns the goods on 10th February 2022.	Not applicable	No tax will be payable. Since, goods returned within six months from the date of dispatch.	
(4)	Mr. Rahim return the goods on 1st September 2022.	Mr. Ram	Mr. Rahim	GST will be payable as the return is after 6 months from date of dispatch. Both Mr. Ram and Mr. Rahim are liable to pay GST.
		21st July 2022	1st September 2022	

- (b) (i) (1) As per Section 13(6) of IGST Act, 2017, Place of supply of service will be the place in the taxable territory (i.e. Delhi and Assam). Q Ltd. is liable to pay CGST and SGST for the part of Delhi, Q Ltd. is liable to pay IGST for the part of Assam. Q Ltd. is also liable to pay CGST and SGST as well as IGST for the services rendered in Sweden in ratio 3:7. It means tax will be payable on the entire value.
- (2) As per section 13(11) of the IGST Act, 2017, PoS is Bangkok which is non-taxable territory, not subject to GST.
- (3) As per section 12(3)(a) of IGST Act, 2017, Location of service recipient is the place of supply of service. PoS = Mumbai. Taxable territory. Hence, attract IGST in the hands of Mrs. Rita Kumar.
- (ii) (1) Time of supply = 28th August 2022
(2) Effective rate of GST = 12%

4. (a) (i) Compute value of taxable supply of services of Air Speed Airlines located in Chennai for transportation of passengers by air from the following data relating to sums received exclusive of GST

- (1) **Passengers embarking at Arunachal Pradesh (in economic class): ₹ 5 lakhs;**
- (2) **Amount for journey terminated at Assam (in economic class): ₹ 4 lakhs;**
- (3) **Amount charged from passenger for flights starting from USA to Chennai: ₹ 250 lakhs;**
- (4) **Amount charged from passengers flying from Chennai to Sydney (Business class): ₹ 540 lakhs (including passenger taxes levied by government and shown separately on ticket: ₹ 100 lakhs). All passengers booked ticket from Delhi Office of Air Speed Airlines.**

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- (5) Passengers embarking from Chennai to Coimbatore (Economic class): ₹ 4 lakhs. Passengers booked tickets from Chennai office of Air Speed Airlines.
Applicable rate of GST 5% and 12%. Find the IGST, CGST & SGST if any. [5]
- (ii) Turnover of Mr. Roy in the preceding financial year is ₹ 49 Lakh. Mr. Roy has opted for Composition Scheme. During the year on 18th February 20XX, turnover of Mr. Roy exceeds ₹ 1.50 crore. What compliances are required to carry by Mr. Roy? [3]
- (b) (i) M/s A Ltd. sold plant and machinery after being used in the manufacture of taxable goods for ₹ 4,00,000 on 1st November 2022. GST is payable on transaction value of plant and machinery 18%. M/s A Ltd. was purchased this machine vide invoice dated 22nd November 2021 for ₹ 5,50,000/- plus GST 18%.
M/s A Ltd. availed the credit on said plant and machinery. Find the amount payable by M/s A Ltd. under section 18(6) of the CGST Act, 2017. [4]
- (ii) M/s X Ltd. purchased input for ₹2,00,000 vide Tax Invoice No. 12 dated 1st December 2021. M/s X Ltd. has submitted annual return for the financial year 2021-22 on 15th September 2022. Find the time limit within which input tax credit can be availed on input by X Ltd. M/s X Ltd. wants to take input tax credit on such input on 30th November 2022, advise. [3]

Answer:

- (a) (i) Statement Showing GST Liability of Air Speed Airlines:

(1) embarking at Arunachal Pradesh	exempted supply
(2) where journey terminated at Assam	exempted supply
(3) from USA to Chennai	exempted supply
(4) from Chennai to Sydney (Business class)	4,40,00,000
Passenger tax	1,00,00,000
(5) from Chennai to Coimbatore	4,00,000 (Economic class)
Value of Taxable Supply of Services	5,44,00,000
IGST 12% on ₹ 5,40,00,000	64,80,000
CGST 2.5% on ₹ 4,00,000	10,000
SGST 2.5% on ₹ 4,00,000	10,000
Total Tax	65,00,000

NOTE: Compulsory Inclusions: Any taxes, fees, charges levied under any law other than GST law, are required to be added to the price (if not already added) to arrive at the taxable value.

- (ii) Mr. Roy is required to do the following compliances:
File a FORM GST CMP-04 within 7 days i.e. before 25th February 20XX. Details of stock and capital goods, as on 18th February, 20XX, are required to file in

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FORM GST ITC-01 within 30 days i.e. before 20th March 20XX to take the credit of input on the same.

(b) (i)

Particulars	Amount in ₹	Working note
ITC taken on capital goods	99,000	₹5,50,000 x 18%
Less: 25% reduction	(24,750)	No. of quarters = 5
5% x 5 = 25% reduction		
Balance ITC	74,250	
Tax on Transaction value	72,000	₹4,00,000 x 18%

Note: M/s A Ltd. shall pay amount equal to the input tax credit taken on the said capital goods reduced by 5% per quarter or part thereof from the date of the issue of the invoice for such goods or the tax on the transaction value of such capital goods u/s 15 of the CGST Act, 2017 whichever is higher. Therefore, M/s A Ltd. is liable to pay an amount of ₹ 74,250/-.

(ii) Time limit to avail the credit is earlier of the following:

- (1) 30th November 2022
- or
- (2) 15th September 2022

Therefore, M/s X Ltd. has to avail the input tax credit on or before 15th September 2022.

Advise: After 15th September 2022, the registered taxable person cannot take credit based on invoice pertaining to supply of goods or services for the period 1st April 2021 to 31 March 2022. Hence, in the given case M/s X Ltd. is not eligible to avail the input tax credit on 30th November 2022.

5. (a) (i) **What are the advantages of voluntary registration under GST?** [5]

(ii) **Mr. J has been involved in supplying taxable material in J&K. His turnover exceeded the limit of ₹40 lacs. Is Mr. J required to register under GST law?** [2]

(b) **M/s Martin Pvt. Ltd. is a distributor or selling agent of lottery tickets, authorized by the State of Kerala. Who is liable to pay GST and also find GST liability from the following:** [2+6=8]

Particulars	Maha Lakshmi (Printed) (Lottery run by State Govt.)	Bhaghya Lakshmi (Online) (Lottery authorized by State Govt.)
No. of tickets proposed	2,50,000	3,00,000
Face value of ticket	₹ 10 each	₹ 500 each
Guaranteed prize payout	@60%	@90%
No. of tickets sold	2,00,000	2,35,000

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Price notified by the State of Kerala	₹ 8 per ticket (exclusive of tax)	₹ 380 per ticket (exclusive of tax)
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Answer:

- (a) (i) Advantages of voluntary registration under GST:
- (i) Legally recognized as supplier of goods or services; This helps in attracting more customers.
 - (ii) Provide input tax credit to customers. As they can issue taxable invoices, they can collect GST. Their customers can take input credit on their purchases.
 - (iii) They will be more competitive than other small business as buying from them will ensure input credit.
 - (iv) Voluntarily registered persons can take input credit on their own purchases and input services like legal fees, consultation fees etc.
 - (v) They can make inter-state sales without many restrictions.
- (ii) Taxable turnover exceeds ₹ 40 lacs, and then the supplier shall apply for registration. Therefore, Mr. J is required to register under GST law.

- (b) M/s Martin Pvt. Ltd. is liable to pay GST.
w.e.f. 1-3-2020 Value of supply in case of lottery run by the State or authorised by the State as per Rule 31A of the CGST Rules, 2017 is as follows:
 $100 \div 128 \times (\text{face value of lottery tickets})$
or
price notified in the office gazatte by the organising state
which ever is higher

In case of Maha Lakshmi Printed:

$$\begin{aligned} \text{face value} &= 2,50,000 \times 10 \times 100/128 \\ &= ₹ 19,53,125 \end{aligned}$$

$$\text{price notified by the state} = 2,50,000 \times 8 = ₹ 20,00,000$$

whichever is higher i.e. ₹ 20,00,000

$$\text{CGST @ 14\%} = ₹ 20,00,000 \times 14\% = ₹ 2,80,000$$

$$\text{SGST @ 14\%} = ₹ 20,00,000 \times 14\% = ₹ 2,80,000$$

GST is liable to be paid by M/s Martin Pvt. Ltd. under reverse charge.

In case of Bhagya Lakshmi online:

$$\begin{aligned} \text{face value} &= 2,35,000 \times 500 \times 100/128 \\ &= ₹ 9,17,96,875 \end{aligned}$$

$$\text{price notified by the state} = 2,35,000 \times 380 = ₹ 8,93,00,000$$

whichever is higher i.e. ₹ 9,17,96,875

$$\text{CGST @ 14\%} = ₹ 9,17,96,875 \times 14\% = ₹ 1,28,51,563$$

$$\text{SGST @ 14\%} = ₹ 9,17,96,875 \times 14\% = ₹ 1,28,51,563$$

GST is liable to be paid by M/s Martin Pvt. Ltd. under reverse charge.

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Note: In case of Maha Lakshmi (printed) State Govt. sold to agent 2,50,000 tickets. In case of Bhaghya Lakshmi (online) tickets will be printed at the time of payment by buyer.

6. (a) (i) Motor vehicle worth ₹20 lakh is sold by M/s Sundar Pvt. Ltd. to a customer in retail market and for which ₹ 5 lakh has been paid in cash and balance amount by way of cheque.

Find the following:

- (1) Whether TCS under section 206C of the Income Tax Act, 1961 is applicable in the given case?
- (2) Who is required to collect TCS?
- (3) Value of TCS, if any.
- (4) Value of taxable supply under section 15 of CGST Act, 2017.
- (5) Invoice Price of M/s Sundar Pvt. Ltd.

Note: Assume applicable TCS is @1% and GST 28%.

[6]

- (ii) M/s X Ltd. is supplier of security services provided such services to M/s Y Ltd. As per the contract M/s Y Ltd is to pay monthly ₹1,00,000. In the month of November M/s Y Ltd. supplied uniforms to all employees of M/s X Ltd. by spending ₹20,000. As a result, M/s X Ltd. raised the bill for ₹80,000 in the month of November. In the given case M/s X Ltd. received consideration for security service is partially in terms of money ₹80,000 and partially in kind (i.e. uniforms). Find the taxable value of service on which GST will be levied. [2]

- (b) (i) Mr. A. R. Rehman being a music director (registered person under GST). He made following supplies:

Indigenous handmade musical instruments for:	₹2,00,000
Composed hello tune and transferred permanently for:	₹ 30,00,000
Pianos for:	₹ 1,50,000
Percussion musical instruments (like drums, xylophones) for:	₹ 5,00,000

Find the GST liability. Applicable rate GST 28%. All transactions took place within the state of Tamil Nadu. [4]

- (ii) Write any three category of persons who are not entitled to avail Composition Levy. [3]

Answer:

- (a) (i) (1) Yes, TCS is applicable in the given case.
(2) Under section 206C the seller has to collect Tax at Source (TCS) at the rate of 1% from purchaser while selling the specified items or services beyond specified limits. In the given case M/s Sundar Pvt. Ltd. must collect the TCS.
(3) TCS = ₹20,000 (i.e. @1% on ₹20 lakh)
(4) Value of taxable supply under Section 15 of CGST Act, 2017 is ₹20 lakh only.
(5) Invoice price

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Particulars	Value in ₹
Cost of Motor Vehicle	20,00,000
Add: TCS under Sec 206C of IT Act, 1961	20,000
Sub-total	20,20,000
Add: GST (28% on ₹20 lakh)	5,60,000
Invoice price	25,80,000

- (ii) GST will be levied on the value of ₹ 1,00,000 (₹ 80,000 + uniforms equal to monetary value of ₹ 20,000) in the hands of M/s X Ltd.

(b) (i)

Particulars	Value in ₹	Remarks
Indigenous handmade musical instruments	Nil	Exempted supply of goods.
Composted hello tune and transferred permanently (As per Schedule II it is supply of service)	Nil	Exempted supply of service
Sale of Pianos	1,50,000	Taxable supply of goods
Sale of Drums, xylophones	5,00,000	-do-
Total taxable supply of goods	6,50,000	
CGST 14%	91,000	₹(6,50,000 x 14%)
SGST 14%	91,000	

- (ii) The persons who are not entitled to avail the benefit of composition scheme are given below:
- (1) The person is engaged in the supply of services (other than restaurant and outdoor catering service), except supply services (other than those referred to in clause of paragraph 6 of Schedule II), of value not exceeding 10% of turnover in a State or Union territory in the preceding financial year or ₹5,00,000, whichever is higher;
 - (2) The person is engaged in making any supply of goods which are not leviable to tax under this Act;
 - (3) The person is engaged in making any inter-state outward supplies of goods;
 - (4) The person is engaged in making any supply of goods through an electronic commerce operator who is required to collect tax at source under section 52; and
 - (5) a manufacturer of such goods as may be notified by the Government on the recommendations of the council.

7. Short Notes (Write any three)

[3x5=15]

- (a) **Export of Service**
- (b) **OIDAR service**
- (c) **Contents of a revised tax invoice and credit or debit note**
- (d) **E-way bill**

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Answer:

- (a)** Export of Service: It means the supply of any service when, —
- (i) the supplier of service is located in India;
 - (ii) the recipient of service is located outside India;
 - (iii) the place of supply of service is outside India;
 - (iv) the payment for such service has been received by the supplier of service in convertible foreign exchange; and
 - (v) the supplier of service and the recipient of service are not merely establishments of a distinct person in accordance with Explanation 1 in section 8;
- (b)** OIDAR service: Online information and database access or retrieval [OIDAR] services means services whose delivery is mediated by information technology over the internet or an electronic network and the nature of which renders their supply essentially automated and involving minimal human intervention, and impossible to ensure in the absence of information technology and includes electronic services:

OIDAR Services includes	OIDAR Services excludes
<ul style="list-style-type: none"> (i) advertising on the internet; (ii) providing cloud services; (iii) provision of e-books, movie, music, software and other intangibles via telecommunication networks or internet; (iv) providing data or information, retrievable or otherwise, to any person, in electronic form through a computer network; (v) online supplies of digital content (movies, television shows, music, etc.); (vi) digital data storage; and online gaming. 	<ul style="list-style-type: none"> (i) Supplies of goods, where the order and processing is done electronically (ii) Supplies of physical books, newsletters, newspapers or journals (iii) Services of lawyers and financial consultants who advise clients through email (iv) Booking services or tickets to entertainment events, hotel accommodation or car hire (v) Educational or professional courses, where the content is delivered by a teacher over the internet or an electronic network (in other words, using a remote link) (vi) Offline physical repair services of computer equipment Advertising services in newspapers, on posters and on television

Examples of OIDAR services: Pdf document automatically emailed by provider's system, Online course consisting of pre-recorded videos and downloadable pdfs.

- (c)** Contents of a revised tax invoice and credit or debit note:
1. The word "Revised Invoice", wherever applicable, indicated prominently
 2. Name, address and GSTIN of the supplier
 3. Nature of the document
 4. A consecutive serial number containing alphabets or numerals or special characters like hyphen or dash and slash symbolised as "-" and "/" respectively, and any combination thereof, unique for a financial year

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5. Date of issue of the document
6. Name, address and GSTIN or UIN, if registered, of the recipient
7. Name and address of the recipient and the address of delivery, along with the name of State and its code, if such recipient is un-registered
8. Serial number and date of the corresponding tax invoice or, as the case may be, bill of supply
9. Value of taxable supply of goods or services, rate of tax and the amount of the tax credited or, as the case may be, debited to the recipient.
10. Signature or digital signature of the supplier or his authorized representative.

- (d) E-way bill: E-way bill will be generated when there is a movement of goods in a vehicle/ conveyance of value more than ₹50,000 (either each Invoice or in aggregate of all Invoices in a vehicle/ Conveyance) –
1. In relation to a 'supply'
 2. For reasons other than a 'supply' (say a return)
 3. Due to inward 'supply' from an unregistered person

For this purpose, a supply may be either of the following:

- (i) A supply made for a consideration (payment) in the course of business
- (ii) A supply made for a consideration (payment) which may not be in the course of business
- (iii) A supply without consideration (without payment)

In simpler terms, the term 'supply' usually means a:

- A. Sale – sale of goods and payment made
- B. Transfer – branch transfers for instance
- C. Barter/Exchange – where the payment is by goods instead of in money

Therefore, e-Way Bills must be generated on the common portal for all these types of movements. For certain specified goods, the e-way bill needs to be generated mandatorily even if the Value of the consignment of Goods is less than ₹ 50,000, as follows:

1. Inter-State movement of Goods by the Principal to the Job-worker by Principal/ registered Job-worker,
2. Inter-State Transport of Handicraft goods by a dealer exempted from GST registration.

Customs (Section- B)

PART – III (Answer all the questions)

8. Choose the correct answer: 1x5=5]
- (a) The limit of exclusive economic zone of India is ____ from the nearest point of the baseline
- (i) 200 nautical miles

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- (ii) 12 nautical miles
 (iii) 24 nautical miles
 (iv) None of the above
- (b) All goods, derelict, Jetsam, flotsam and wreck brought (or) coming into India, shall be dealt with as if they were _____ into India.
 (i) Exported
 (ii) Imported
 (iii) No duty
 (iv) Exempted from tax
- (c) The Anti-dumping duty imposed shall be in force for a period of _____ from the date of its imposition and can be extended by further period of _____.
 (i) 4 years, 10 years
 (ii) 3 years, 5 years
 (iii) 5 years, 5 years
 (iv) None of the above.
- (d) In Customs, buying commission shall be included in the assessable value. Is this statement correct?
 (i) No
 (ii) Yes
 (iii) Yes, if buying commission is paid in foreign currency
 (iv) None of the above
- (e) As per Sec. 2(31) of the Customs Act, 1962 person-in-charge means:
 (i) Vessel – Master
 (ii) Train – Conductor (or) Guard
 (iii) Vehicle – Driver
 (iv) All of the above.

Answer:

(a)	(b)	(c)	(d)	(e)
(i)	(ii)	(iii)	(i)	(iv)

PART – IV

(Answer any one question out of two questions given. Each question carries 15 marks.)

9. (a) (i) What is the taxable event for exported goods? Also state the relevant rate of Foreign exchange in case of exports. [3]
- (ii) An importer imported some goods for subsequent sale in India at \$ 10,000 on assessable value basis. Relevant exchange rate and rate of duty are as follows:

Particulars	Date	Exchange rate declared by the CBIC	Rate of Basic Customs Duty
Date of submission of bill of entry	25th February 2023	₹ 58 / USD	10%
Date of entry inwards	5th March	₹ 58.75 / USD	12%

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granted to the vessel	2023		
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Calculate Assessable value and Customs Duty in Indian rupees. [3]

- (b) (i) An exporter exported 2,000 pairs of leather shoes @ ₹750 per pair. All industry rate of drawback is fixed on average basis i.e. @ 11% of FOB subject to maximum of ₹ 80 per pair. The exporter found that the actual duty paid on inputs was ₹1,95,000. He has approached you, as a consultant, to apply under Rule 7 of the Drawback Rules for fixation of 'special brand rate'. Advise him suitably. [3]
- (ii) What is pilferage under sec. 13 of the Customs Act, 1962? [3]
- (iii) Calculate the amount of duty drawback allowable under the Customs Act, 1962 in the following cases:
- (1) A imported a car from U.K. for his personal use and paid ₹4,50,000 as import duty. However, the car is re-exported immediately without bringing it into use.
 - (2) B imported a music player from Dubai and paid ₹12,000 as import duty. She used it for four months but re-exports the same after four months.
 - (3) C exported 1000 kgs of a metal of FOB value of ₹1,00,000. Rate of duty drawback on such export is ₹ 60 per kg. Market price of goods is ₹40,000 (in wholesale market). [3]

Answer:

- (a) (i) Taxable event for exported goods: As per section 16(1) of the Customs Act, 1962, taxable event arises only when proper officer makes an order permitting clearance (i.e. entry outwards) granted and loading of the goods for exportation took place under Section 51 of the Customs Act, 1962.

Rate of foreign exchange in case of exports: In case of exports, rate of exchange of the CBIC as in force on the date on which a shipping bill or bill of export, as the case may be, is presented under Sec. 50 of the Customs Act, 1962 is applicable.

- (ii) Relevant rate of duty for the imported goods is 12% (i.e. Date of submission of bill of entry or Date of entry inwards granted to the vessel whichever is later)

Exchange Rate is ₹ 58 per USD (i.e. the rate of CBIC as on the date of submission of Bill of Entry by the importer)

Assessable value = ₹ 5,80,000 (i.e. USD 10,000 x ₹ 58)

Basic Customs Duty = ₹ 69,600 (i.e. ₹ 5,80,000 x 12%)

10% Social Welfare Surcharge = ₹ 6,960 (i.e. ₹ 69,600 x 10%)

IGST (Assume 18%) ₹1,18,181 (i.e., 18% on (580000 + 69600 + 6960))

Total Customs Duty including IGST = ₹ 1,94,741 / -

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- (b) (i) Drawback Amount ₹1,65,000 (i.e. 2,000 x ₹750 x 11%)
or
₹1,60,000 (i.e. ₹80 x 2,000) whichever is less.
Therefore, duty drawback allowed is ₹1,60,000.
All Industry duty drawback rate = @82.05% [(1,60,000/1,95,000) x 100%].
Therefore, exporter is eligible for claiming All Industry Duty Drawback
- (ii) As per sec. 13 of the Customs Act, 1962, no duty is payable if the pilferage found before goods cleared from customs under
- Importer does not have to prove pilferage,
 - If the duty is paid before finding the pilferage, refund can be claimed,
- Section 13 does not apply for the warehoused goods.
Conditions to be satisfied for exemption from duty in case of pilferage goods are:
- (i) The imported goods should have been pilfered.
 - (ii) The pilferage should have occurred after the goods are unloaded, but before the proper officer makes the order of clearance for home consumption or for deposit into warehouse.
 - (iii) The pilfered goods should not have been restored back to the importer.
- (iii) (1) A can claim duty drawback of ₹ 4,41,000 (98% of ₹ 4,50,000).
(2) B can claim duty drawback of ₹ 10,200 (i.e. 85% of ₹ 12,000)
(3) C is not entitled to claim duty drawback in this case. Since, market value of exported goods is less than the value of Duty Drawback.

10. (a) (i) **Ramesh imported certain goods in December, 2021. An 'into Bond' bill of entry was presented on 14th December, 2021 and goods were cleared from the port for warehousing. Assessable value on that date was US \$1,00,000. The order permitting the deposit of goods in warehouse for four months was issued on 21st December, 2021. Ramesh deposited the goods in warehouse on the same day but did not clear the imported goods even after the warehousing period got over on 20th April, 2022.**

A notice was issued under section 72 of the Customs Act, 1962, demanding duty, interest and other charges. Ramesh cleared the goods on 14th May 2022. Compute the amount of duty and interest payable by Ramesh while removing the goods on the basis of following information:

Particulars	14-12-2021	20-4-2022	14-5-2022
Rate of exchange per US \$ (as notified by Central Board of Indirect Taxes & Customs)	₹ 65.20	₹ 65.40	₹65.50
Basic Customs Duty	15%	10%	12%

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No other customs duty is payable except basic customs duty. [5]

- (ii) A machine was originally imported from Japan at ₹ 250 lakh in August 2021 on payment of all duties of customs. The said machine was exported (sent-back) to supplier for repairs in January 2022 and re-imported without any re-manufacturing or re-processing in October, 2022 after repairs. Since the machine was under warranty period, the repairs were carried out free of cost. However, the fair cost of repairs carried out (including cost of material ₹ 6 lakh) would have been ₹ 9 lakh. Actual insurance and freight charges (to and fro) were ₹ 3 lakh. The rate of basic customs duty is 10% and rate of IGST in India on like article is 12%.

Compute the amount of customs duty payable (if any) on re-import of the machine after repairs. The ownership of the machine has not been changed during the period. [4]

- (b) (i) Explain the validity of the following statements with reference to Chapter IX of the Customs Act, 1962 containing the provisions relating to the warehousing:

- (1) The proper officer is not authorized to lock any warehouse with the lock of the Customs Department.
- (2) The Commissioner of Customs (Appeals) may appoint public warehouses wherein dutiable goods may be deposited.
- (3) The Commissioner of Customs or Principal Commissioner of Customs is not required to give a notice to the licensee while canceling the license of a private warehouse if he has contravened any provision of the said Act. [3]

- (ii) Determine the safeguard duty payable by X Ltd., under section 8B of the Customs Tariff Act, 1975 from the following:

X Ltd imported Sodium Nitrite from a developing country from 26th February, 2022 to 25th February, 2023 (both days inclusive) ₹ 50 crores.

Total imports of Sodium Nitrite (including developing country) is ₹2,500 crores.

Note: Safeguard duty is @ 30%.

Whether your answer is different in case of import of Sodium Nitrite from a developing country ₹ 80 crores? [3]

Answer:

- (a) (i) Assessable value ₹ 65,20,000 / -
Customs duty is ₹ 7,17,200 (USD 1,00,000 x ₹65.20) x 11% (including SWS) = ₹ 7,17,200
Interest payable is ₹ 16,211 /- (7,17,200 x 15 / 100) x 55 days/ 365 = ₹16,211/-

Month	No. of days delay
From 21st Dec 2021 to 31st Dec 2021	11

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Jan 2022	31
Feb 2022	28
Mar 2022	31
April 2022	30
May 2022	14
Total	145
Less: No. of days for which no interest	-90
No. of delay for interest	55

(ii)

Particulars	₹
Value of goods re-imported after exports [₹ 9 lakh (including cost of materials) + ₹3 lakh]	12,00,000
Basic customs duty @ 10%	1,20,000
Social Welfare Surcharge @ 10% on BCD	12,000
Balance (i.e. Transaction value)	13,32,000
Add: IGST @12% on ₹ 13,32,000	1,59,840
Landed Value	14,91,840
Total Customs Duty (including IGST)	2,91,840

- (b) (i) (1) The given statement is invalid: Sec. 58A (1) The Principal Commissioner of Customs or Commissioner of Customs may, subject to such conditions as may be prescribed, license a special warehouse wherein dutiable goods may be deposited and such warehouse shall be caused to be locked by the proper officer and no person shall enter the warehouse or remove any goods therefrom without the permission of the proper officer.
- (2) The given statement is invalid: The Commissioner of Customs or the Principal Commissioner of Customs can appoint public warehouse, wherein dutiable goods can be deposited under Section 57 of the Customs Act, 1962.
- (3) The given statement is valid: The Commissioner of Customs or Principal Commissioner of Customs is not required to give a notice to the licensee while canceling the license of a private warehouse if he has contravened any provision of the said Act, as per section 58(2)(b) of the Customs Act, 1962.
- (ii) In the first case, since, import from a developing country does not exceeds 3% (i.e. 2% only) of total import of that article in to India, Safeguard duty is Nil.
- In the given second case, safeguard duty will be payable by X Ltd.
Safeguard duty = ₹ 24 crores (i.e. ₹ 80 crores x 30%)
Since, import from a developing country exceeds 3% (i.e. 3.2%)